

UNITED STATES DISTRICT COURT
for the
District of Minnesota

UNITED STATES OF AMERICA

v.

RICKY ISIAH SHERWOOD

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UNDER SEAL

Case No.

14-MJ-332 (TNL)

CRIMINAL COMPLAINT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. The conduct alleged in this complaint occurred outside the jurisdiction of any particular State or District and within the venue of the United States District Court for the District of Minnesota, as provided by 18 U.S.C. Section 3238. The District of Minnesota is the last known residence of the defendant, RICKY ISIAH SHERWOOD. On or about February 11, 2014, the defendant,

while employed by and accompanying the Armed Forces outside the United States, engaged in conduct that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, namely, defendant engaged in a sexual act, to wit, contact between the penis and vulva, with S.R., a known female, when S.R. was incapable of appraising the nature of the conduct and physically incapable of declining participation in, and communicating unwillingness to engage in that sexual act, at Kadena Air Force Base, Okinawa, Japan,

in violation of Title 18, United States Code, Sections 3261, 2242(2), and 2246(2)(A).

I further state that I am a Special Agent and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: Yes No



Complainant's signature

Maureen T. Lese, Special Agent, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: May 7, 2014

City and state: St. Paul, Minnesota



Judge's signature

SCANNED

The Hon. Tony N. Leung, U.S. Magistrate Judge
Printed name and title
MAY 08 2014

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

UNDER SEAL

INTRODUCTION

I, Special Agent Maureen Lese, of the Federal Bureau of Investigations (FBI) having been duly sworn, do hereby state as follows:

AFFIANT'S EXPERIENCE

1. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI") and have been so employed for over 20 years. I am currently assigned to the Minneapolis, Minnesota, Division of the FBI and work on the Child Exploitation Task Force. I have received both specialized FBI training and private vendor training in the investigation of computers, computer related crimes, and crimes involving the sexual exploitation of children. My current assignment on the Child Exploitation Task Force involves the investigation of criminal offenses related to the sexual exploitation of children using computers, computer networks, and the Internet. I have specialized in these types of investigations for over fourteen years. While employed by the FBI, I have participated in hundreds of investigations in which I have collected evidence in electronic form. I am currently one of two Crimes against Children Coordinators for the Minneapolis Office.

2. As a federal agent, I am authorized to investigate violations of United States laws and to execute warrants issued under the authority of the United States.

3. This Affidavit contains information necessary to support a finding of probable cause and is based on information conveyed to me by other law enforcement officials, and on my review of records, documents, and other physical evidence obtained during this investigation. This affidavit does not include each and every fact observed by me or known by the government, and it is being submitted solely for the purpose of providing sufficient information to establish probable cause.

IDENTITY OF SUSPECT

4. Ricky Isiah Sherwood ("Sherwood") is a United States citizen born on November 16, 1995/SSN: XX-XX-1528. Sherwood is the dependent nephew of United States Marine Corps (USMC) Staff Sergeant (SSgt) David Hernandez, and has resided outside the United States since at least January 2014. Sherwood resides with his legal guardian (who is his uncle) on Kadena Air Base, Okinawa, Japan, in connection with his uncle's employment with the USMC. Sherwood also has a part-time position working as a lifeguard on base. Sherwood is neither a national of Japan nor ordinarily resident in Japan. Sherwood's last known address in the United States, as provided by his uncle SSgt David Hernandez, was in the city of White Bear Lake, Minnesota

RELEVANT LAW

5. 18 U.S.C. § 3261(a) makes it a crime for an individual, while employed by or accompanying the Armed Forces outside the United States, to engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States. 18 U.S.C. § 3267(1) (a) defines the term "employed by the Armed Forces outside the United States" as including a civilian employee of the Department of Defense (including a non-appropriated fund instrumentality of the Department) who is present or residing outside the United States in connection with such employment and is not a national of, or ordinarily resident in, the host nation. 18 U.S.C. § 3267(2) defines the term "accompanying the Armed Forces outside the United States" as including a dependent family member of an employee of the Department of Defense (including a non-appropriated fund instrumentality of the Department) who is present or residing outside the United States in connection with such employment and is not a national of, or ordinarily resident in, the host nation.

6. 18 U.S.C. § 2242(2) makes it a crime in the special maritime and territorial jurisdiction of the United States to knowingly engage in a sexual act with another person if that other person is incapable of appraising the nature of the conduct, or physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act. 18 U.S.C. § 2246(2) defines a "sexual act" to include contact between the penis and the vulva and that contact involving the penis occurs upon penetration, however slight. The possible term of imprisonment for the violation of 18 U.S.C. § 2242(1) is any term of years or life.

FACTUAL BACKGROUND

7. The victim ("SR"), a minor, was 17 years old on the date of the incidents described in this affidavit, and resides with her family at their residence located on Kadena Air Base, Okinawa, Japan.

8. On or about February 11, 2014, Special Agent Matthew Pilch, Air Force Office of Special Investigations (AFOSI) informed Special Agents of the Naval Criminal Investigative Service (NCIS) in Okinawa, Japan, that on or about February 11, 2014, at approximately 6:30PM, two Kadena High School counselors reported they observed what appeared to be an intoxicated SR with several male high school students while at Kenny Park, Kadena Air Base, Okinawa, Japan. SR was transported to the US Naval Hospital on Camp Foster, Okinawa, Japan, for evaluation and was determined to have a Blood Alcohol Content (BAC) of 0.208%. To put that in perspective, your affiant knows this is more than twice the legal limit in Minnesota to drive a car.

9. SR informed NCIS agents, that on February 11, 2014, she left school with Ricky Isiah

Sherwood and other male students from Kadena High School and went to Ricky Isiah Sherwood's residence on Kadena Air Base. SR further informed NCIS agents that Ricky Isiah Sherwood provided alcohol to her and the others present. SR related she did not have any recollection of the events that took place between drinking a second cup of alcohol and being addressed by emergency first responders at Kenny Park on February 11, 2014.

10. Several interviews of Kadena High School students who were at Ricky Isiah Sherwood's residence on February 11, 2014, were conducted. NCIS agents discovered that SR and Sherwood were intoxicated and that Ricky Isiah Sherwood and SR were observed having sex. At the end of the sexual encounter, SR was described as unable to stand, walk, or dress herself on her own due to intoxication. Witnesses reported that SR was propped on a chair and pulled through the house, carried outside, and placed in a car. Sherwood was driven by a friend to his part-time job on base as a lifeguard, and his coworkers later reported he did not appear intoxicated.

11. On February 12, 2014, Special Agents with NCIS interviewed Sherwood at NCIS Resident Agency (NCISRA) Okinawa, Japan. Sherwood was transported to the NCIS office by NCIS agents and was advised of his *Miranda* rights, which he waived. Sherwood admitted that he had sexual intercourse with SR on February 11, 2014, at his residence on Kadena Air Base, Okinawa, Japan, after providing her with alcohol. Sherwood stated he had video recorded the sexual encounter with SR on his cellular telephone.

12. Sherwood further informed NCIS agents, that SR did not appear to be sobering up as quickly as he was.

13. NCIS agents viewed the video recordings on Sherwood's cellular telephone. The video recordings showed what appeared to be an intoxicated SR, nude and on her back with Sherwood penetrating SR's vagina digitally and with his penis. Sherwood appeared coherent. For much of the video recordings, SR did not move, had her eyes closed, and was laying on the bed with her head askew in what appeared to be an uncomfortable angle. Other students from Kadena High School were observed as being in Ricky Isiah Sherwood's room while he was having sex with SR. One of the males stated, "She looks like she's gunna die."

[Continued on following page.]

REQUEST FOR AN ARREST WARRANT AND CRIMINAL COMPLAINT

14. Based on the above information, I submit there is probable cause to believe that on February 11, 2014, Ricky Isiah Sherwood, while a civilian employee of the Department of Defense and while accompanying a member of the Armed Forces outside the United States, engaged in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged within the special maritime and territorial jurisdiction of the United States, to wit, Ricky Isiah Sherwood, did knowingly engage in a sexual act (contact between SR's vagina and Ricky Isiah Sherwood's penis) with SR, in violation of Title 18, United States Code Section 2242(2).

Further your affiant sayeth not.

Maureen T. Lese

Maureen T. Lese, Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 7th day of May, 2014.

Tony N. Leung

The Honorable Tony N. Leung
United States Magistrate Judge